



REQUEST FOR PROPOSALS (RFP) for Temporary Staffing Solutions

For the Human Resources Department

City of Durham

RFP 25-0039

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Request for Proposal (RFP) for qualified and experienced firms to provide temporary staffing solutions for City of Durham departments.

10. Date of RFP: July 8, 2024

20. Project Manager and Contact with City; Questions about this RFP. Direct questions and concerns to

Att: Jim Reingruber, Assistant Director, Human Resources
Human Resources Department
101 City Hall Plaza
Durham, NC 27701
Email: jim.reingruber@durhamnc.gov

If you have concerns about this RFP that you believe are not being addressed by the project manager, please contact

Robin Wynn, Director, Human Resources
Human Resources Department
101 City Hall Plaza

DESCRIPTION OF PROJECT AND NATURE OF RFP

30. Project. The City of Durham through this RFP is seeking proposals from qualified and experienced firms to provide temporary staffing solutions, for the period from November 1, 2024, through October 31, 2027.

City departments seeking to enlist temporary staffing need assistance in their daily operations and/or with specific time-limited projects.

Authorized vendor(s) will contract with departments to provide temporary staffing to assist departments in meeting the needs of their daily operations and/or completing specific time-limited projects as defined by the hiring department(s).

40. Scope of Work. The City is soliciting a person or firm to provide the following services:

1. Temporary Staffing Solutions

Firm will be required to provide temporary staffing for City of Durham departmental needs. Temporary staffing is needed in a wide variety of skill sets including but not limited to: Labor, Clerical/Administrative, Engineering, Financial / Accounting, Trades, and Information Technology Professionals. The City requires drug screening and background checks for all employees and for temporary staffing, so will require documentation that finalists have passed those screenings. All finalists must meet the minimum qualifications for opportunities and the City expects the staffing agency to only provide finalists for consideration that meet those requirements.

Please include information on the standard operating procedures your organization uses for pre-employment testing you conduct on people you might place at the City. Pre-employment testing would include tests such as drug testing, physical testing, background checking, driving record checking etc.

At its sole and absolute discretion, the City of Durham may select one or more respondents to be eligible to provide the City with these services.

Services will be provided only at the specific request of the Human Resources Department or City of Durham department representative (pursuant to a Request For Services) and will be compensated in accordance with the rates established in the Agreement(s), if any, that results from this RFP process.

Any agreement(s) resulting from this RFP will commence November 1, 2024, and continue through October 31, 2027.

50. Compensation Amount and Schedule. Indicate hourly rate or fee schedule to complete the project listed in the scope based on the services your firm can provide. Include any additional costs for projects or tasks you may feel will be helpful that are not listed in the RFP.

- (a) Your fee schedule or rate card should be broken out by the following job classifications: Labor, Clerical/Administrative, Engineering, Financial / Accounting, Trades, and Information Technology Professionals. Any of those areas that you do not provide staffing services for can be omitted. Proposals will be evaluated against the rate card you provide, which should give a markup percentage. Example: if a candidate is paid 30 dollars an hour but your agency charges the City of Durham 37.50 dollars an hour for that candidates billing rate, then the markup percentage would be 25% markup. Markup variances are acceptable between job classifications.
- (b) Please include any volume discount programs you might be able to offer and the terms and conditions of those discounts.
- (c) Please include any discounted rate given for "pay rolled" candidates. Such as a candidate identified by the City of Durham and sent to the agency for placement into a contract position at the City, but where the agency is only managing the administrative functions of placing that candidate at the City, such as setting the candidate up in their payroll system, pre-employment tasks such as I-9, Direct deposit, Drug testing etc.
- (d) Please include any conversion fees and conversion fee schedule in the event the City of Durham hires a candidate you placed into a permanent position, and provide the rate of discount levels for number of hours worked.

60. Definitions in this RFP: City, RFP, Proposal, Candidate, Contractor, Should. Unless the context indicates otherwise – (a) The expressions “RFP,” “this RFP,” and “the RFP” refer to this document as it may be amended or updated. (b) “City” and “city” mean the City of Durham. (c) The “proposal” or “Bid” is the response of a person, firm, or corporation proposing to provide the services sought by this RFP. (d) The word “Candidate” or “candidate” is the person, firm, or corporation that submits a proposal or that is considering submitting a proposal. (e) The word “Contractor” or “contractor” is the person, firm, or corporation with which the City enters into a contract to provide the services sought by this RFP. That is, “contractor” generally refers to a successful candidate that has obtained a fully executed contract with the City, while “candidate” is generally reserved to the stage before a contract has been signed. (f) The word “should” is used to tell candidates what the City thinks it wants and/or what the project manager thinks is best. Candidates that want to increase the likelihood of being selected will, in general, do what the RFP says candidates “should” do, but failure to comply with all “shoulds” will not necessarily and automatically result in rejection.

70. Contract. The City anticipates that the conclusion of the RFP process will be a contract between the City and the successful candidate(s) under which the successful candidate(s) will provide the goods and services generally described in this RFP. It is the City’s intention to use the contract that is attached as Exhibit A, modified and filled in to reflect the RFP and the proposal. If a candidate objects to any of the contract, it should state the objections in its proposal.

80. Trade Secrets and Confidentiality. As a general rule, all submissions to the City are available to any member of the public. However, if materials qualify as provided in this section, the City will take reasonable steps to keep trade secrets confidential.

Definitions.

In this section (Trade Secrets and Confidentiality) –

The term “candidate” includes the candidate as contractor (that is, after it is a party to a contract with the City).

The term “trade secret” means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

The term “record” means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, received by the City of Durham in connection with the candidate’s proposal.

(a) Designation of Confidential Records. To the extent that the candidate wishes to maintain the confidentiality of trade secrets contained in materials provided to the City, the candidate shall prominently designate the material with the words “trade secrets” at the time of its initial disclosure to the City. The candidate shall not designate any material provided to the City as trade secrets unless the candidate has a reasonable and good-faith belief that the material contains a trade secret. When requested by the City, the candidate shall promptly disclose to the City the candidate’s reasoning for designating material as trade secrets; the candidate may need to label parts of that reasoning as trade secrets. In providing materials to the City, the candidate shall make reasonable efforts to separate those designated as trade secrets from those not so designated, both to facilitate the City’s use of the materials and to minimize the opportunity for accidental disclosure. For instance, if only a sentence or paragraph on a page is a trade secret, the page must be marked clearly to communicate that distinction. To avoid mistake or confusion, it is generally best to have only trade secret information on a page and nothing else on that page.

To the extent authorized by applicable state and federal law, the City shall maintain the confidentiality of records designated “trade secrets” in accordance with this section. Whenever the candidate ceases to have a good-faith belief that a particular record contains a trade secret, it shall promptly notify the City.

(b) Request by Public for Access to Record. When any person requests the City to provide access to a record designated as a trade secret in accordance with subsection (a) above, the City may

- (1) decline the request for access,
- (2) notify the candidate of the request and that the City has provided, or intends to provide, the person access to the record because applicable law requires that the access be granted, or
- (3) notify the candidate of the request and that the City intends to decline the request.

Before declining the request, the City may require the candidate to give further assurances so that the City can be certain that the candidate will comply with subsection (c) below.

(c) Defense of City. If the City declines the request for access to a record designated as trade secrets in accordance with subsection (a), then, in consideration of the promises in (b) above and for considering the candidate's proposal, the candidate agrees that it shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of the City's non-disclosure of the records. In providing that defense, the candidate shall at its sole expense defend Indemnitees with legal counsel. The legal counsel shall be limited to attorneys reasonably acceptable to the City Attorney. Definitions. As used in this subsection (c), "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, fines, penalties, settlements, expenses, attorneys' fees, and interest. Indemnitees" means the City, and officers, officials, independent contractors, agents, and employees, of the City. "Indemnitees" does not include the candidate. The City may require the candidate to provide proof of the candidate's ability to pay the amounts that may reasonably be expected to become monetary obligations of the candidate pursuant to this section. If the candidate fails to provide that proof in a timely manner, the City shall not be required to keep confidential the records whose non-disclosure gives rise to the potential monetary obligation. Nothing in this agreement shall require the City to require any person (including the City itself) to be placed in substantial risk of imprisonment, of being found by a court to be in contempt, or of being in violation of a court order. This subsection (c) is separate from and is to be construed separately from any other indemnification and warranty provisions in the contract between the City and the candidate.

85. Reserved.

90. Bonds. No performance bond or payment bond is required for this contract.

100. Insurance. The contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following applicable coverages and limits. The requirements contained herein, as well as the City's review or acceptance of insurance maintained by Contractor, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability, Cross Liability, or Personal and Advertising Injury Liability.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a City of Durham site.

Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse the City of Durham as an 'Additional Insured' on the Umbrella or Excess Liability unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

Worker's Compensation & Employers Liability – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with Employer Liability limits of no less than \$1,000,000 for each accident, each employee, and policy limit. This policy must include a Waiver of Subrogation.

Additional Insured – The contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability. The Additional Insured shall read City of Durham as its interest may appear.

Certificate of Insurance – Contractor agrees to provide City of Durham a Certificate of Insurance evidencing that all coverage, limits, and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address should read:

City of Durham
Attn: (Insert Name of Department maintaining the Contract)
101 City Hall Plaza
Durham, NC 27701

All primary insurance carriers must be authorized to do business in North Carolina.

110. Discretion of the City.

- A. The City of Durham reserves the right to (i) reject any, any part of, or all proposals, or (ii) accept that proposal which the City deems to be in its best interest, whether or not it is the lowest dollar proposal.
- B. NOTWITHSTANDING anything to the contrary in this document or in any addendums to this document, unless the contrary provision refers specifically to this provision, the City reserves the right (i) to negotiate changes of any nature with any candidate with respect to any term, condition, or provision in this document and/or in any proposals, whether or not something is stated to be mandatory and whether or not it is said that a proposal will be rejected if certain information or documentation is not submitted with it, and (ii) to enter into an agreement for some or all of the work with one or more persons, firms, or corporations that do not submit proposals. For example, all deadlines are for the administrative convenience or needs of the City and may be waived by the City in its discretion. This subparagraph B applies to the entire RFP, including the UBE portions.
- C. Where the City asks or tells candidates to do stated things, such as that a proposal should follow a stated format or that the candidate should do stated things in seeking the contract, the City may reject a proposal because it does not comply with those requests, so the candidate is adding to its risk of rejection by non-compliance. Still, the City may, in its discretion, waive non-compliance. This subsection (C) does not limit subsections (A) and (B).
- D. Of course, once a contract is signed, the parties to the contract may enforce the contract according to its terms as allowed by applicable law.

SCHEDULE

120. Schedule.

Issue/Advertise RFP	July 8, 2024
Pre-submittal conference	July 16, 2024 11:00 am
Deadline for written questions and clarifications on RFP	July 23, 2024 by 4:30 pm
Deadline for submission of proposals	August 8, 2024 by 4:30 pm
City completes evaluation	August 22, 2024
Notify selected team, begin contract negotiations, where appropriate	August 30, 2024
Complete contract negotiations with selected firms	September 2024
City Manager or City Council approval	October 2024
Notice to Proceed	November 2024

This schedule is the City's best estimate of the schedule that will be followed. If a component of this schedule from the beginning to the City completing evaluation is delayed, the rest of the schedule will be shifted by the same number of days.

130. Keeping Proposals Open. All proposals will remain open and valid for the City to accept for a period of 90 days after the deadline for submission of proposals. The Project Manager may release candidates from this obligation by a written letter that specifically refers to this paragraph if he or she determines that the candidate and/or the proposal will not meet the City's needs.

140. Deadline to Submit Proposals. Candidates should see that their proposals are received by August 8, 2024 at 4:30 pm ET. Email one electronic copy in PDF format of your submittal to jim.reingruber@durhamnc.gov. Please limit your response to 20 pages. The page count does not include required City forms. Font size shall be no less than 12 point.

GETTING MORE INFORMATION ON THE PROJECT AND RFP PROCESS

150. Questions. Questions about the RFP and the RFP process should be submitted to the project manager identified at the beginning of this RFP.

160. Pre-submittal conferences, meetings, and site visits. There will be an optional pre-submittal conference on July 16, 2024 at 11:00 am. This will be held virtually through Microsoft Teams. Attendees should already be familiar with the RFP. Attendance is not required but is encouraged. If you wish to participate, please contact the Project Manager, Jim Reingruber, directly at jim.reingruber@durhamnc.gov at least 24 hours prior to the meeting.

170. Updates and revisions to RFP. If you have supplied the Project Manager with your preferred method of contact (email, fax, etc.), updates to this RFP ("addendums" or "addenda") will be sent to you in that manner. This RFP and addendums are normally posted on the City's website, on the Purchasing Division's webpage. Check that webpage to see that you have received all addenda.

EVALUATION CRITERIA

180. Evaluation Criteria. If an award is made, it is expected that the City's award will be to the candidate that agrees to meet the needs of the City. A number of relevant matters will be considered, including qualifications and cost.

190. Understanding of the Project— 15 points

Proposals will be evaluated against the questions set out below.

- (a) How well has the candidate demonstrated a thorough understanding of the purpose and scope of the project?
- (b) How well has the candidate identified issues and potential problems related to the project?
- (c) How well has the candidate demonstrated that it understands the deliverables the City expects it to provide?
- (d) How well has the candidate demonstrated that it understands the City's schedule and can meet it?
- (e) Adherence to the City's UBE program.

200. Methodology Used for the Project— 25 points

Proposals will be evaluated against the questions set out below.

- (a) How well does the methodology depict a logical approach to fulfilling the requirements of the RFP?
- (b) How well does the methodology match and contribute to achieving the objectives set out in the RFP?
- (c) How well does the methodology interface with the schedule in the RFP?

210. Management Plan for the Project— 15 points

Proposals will be evaluated against the questions set out below.

- (a) How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFP?
- (b) How well is accountability completely and clearly defined?
- (c) Is the organization of the project team clear?
- (d) How well does the management plan illustrate the lines of authority and communication?
- (e) To what extent does the candidate already have the hardware, equipment, and licenses necessary to perform the contract?
- (f) Does it appear that the candidate can meet the schedule set out in the RFP?
- (g) Has the candidate offered alternate deliverables and gone beyond the minimum tasks necessary to meet the objectives of the RFP?
- (h) Is the proposal practical, feasible, and within budget?
- (i) How well have potential problems been identified?
- (j) Is the proposal responsive to all material requirements in the RFP?

220. Experience and Qualifications— 25 points

Proposals will be evaluated against the questions set out below.

Questions regarding the personnel.

- (a) Do the individuals assigned to the project have experience on similar projects?
- (b) Are resumes complete and do they demonstrate backgrounds that are desirable for individuals engaged in the work the project requires?
- (c) How extensive are the applicable education and experience of the personnel designated to work on the project?
- (d) How knowledgeable are the candidate's personnel of the local area and how many individuals have worked in the area previously?

Questions regarding the candidate:

- (e) How well has the candidate demonstrated experience in completing similar projects on time and within budget?
- (f) How successful is the general history of the candidate regarding timely and successful completion of projects?
- (g) Has the candidate provided letters of reference from clients?

- (h) How reasonable are the candidate's cost estimates?
- (i) How strong are the candidate's standard operating procedures that are used for pre-employment testing including drug testing, physical testing, background checking, driving record checking etc.?

230. Contract Cost— 20 points

The lowest cost proposal will receive the maximum number of points allocated to cost. Cost is one of a number of factors, so a candidate with the lowest cost cannot count on being selected.

CONTENTS OF PROPOSAL

240. Contents of Proposal.

The proposal should include sections, numbered as follows:

1. **Contact information.** Include the candidate's name and address, and the contact information (name, mailing address, email address, fax number, and telephone number) of the person whom the City should contact regarding the proposal.
2. **Legal Status of the Candidate and Signers.** State the full, exact name of the candidate. State whether the candidate is an individual, corporation, limited partnership, general partnership, limited liability company, professional corporation, professional association, etc. If it is anything other than an individual or a general partnership, specify the State under which the entity is organized. If the State under which the entity is organized is not North Carolina, specify whether the candidate has received a certificate of authority from the N. C. Secretary of State to transact business in North Carolina. State whether the entity is in existence at the time the proposal is submitted, and if not, whether and when the candidate intends to officially form the entity. State the names and titles of the individuals who will sign the contract with the City.
3. **Qualifications, References, and Licenses.** This part should include the candidate's experience on similar projects and include references and how to contact them.

List the candidate's current licenses that are pertinent to this project.

4. **Project Team, Location of Work, and Subcontracting.** State the names and qualifications of the individuals who will have responsibility for this project.
- 4.5. **Workforce Diversity Questionnaire.** Complete the [Contractor Workforce Diversity Questionnaire](#) ("Diversity Questionnaire") and provide it with your Proposal. The Diversity Questionnaire will not be used as a factor in determining a recommendation for award; however, the completed Diversity Questionnaire will be required of the Contractor before any contract will be authorized for execution. It is recommended that the Diversity Questionnaire be submitted at the same time as the Proposal in order to facilitate the processing of the Contractor's information. This form is not included as part of any submittal page maximum. The form can be found here: [Contractor-Workforce-Diversity-Questionnaire-010824-rev \(durhamnc.gov\)](#)
5. **Methods and Procedures.** Explain how you plan to accomplish the work you propose.
6. **Compensation.** Explain the entire compensation arrangement that you propose.
7. **Assumptions regarding City of Durham Actions and Participation.** If your proposal assumes that the City will take certain actions, provide facilities, or do anything else, you should state these assumptions explicitly.
8. **UBE Participation.** See the statement with this RFP at the end of this RFP for UBE participation information and instructions on which UBE forms to fill in and return. For help, call the City's Division of Contracts & Compliance in the Department of Finance at (919) 560-4180.

You can print out the UBE forms that are in the RFP and fill them in. Here's another option: after you have read the UBE material in this RFP to learn which UBE forms to fill in, you may, if you like, go to the Contracts & Compliance Division's webpage to find versions that you can fill in online, print out, and submit.

9. **Financial Condition, Insurance, Bonds, and Taxes.** See section 100 above on **Insurance** and submit a current Certificate of Insurance showing those minimum coverages are in place, or provide a statement that you understand the requirements and will obtain the necessary coverage if selected by the City to enter a contract.

10. **Conflict of Interest.** If the candidate has any grounds to believe there could be a conflict of interest, such as that a City employee who is involved in awarding the contract has a connection with the candidate, please explain.

11. **Non-collusion.** Sign the following and include it with your response:

NON-COLLUSION AFFIDAVIT

By executing this proposal, I certify that this proposal is submitted to the City of Durham competitively and without collusion. I am authorized to represent the candidate both in submitting this bid and in making this Non-collusion Affidavit. To the best of my knowledge and belief, (1) the candidate has not violated N. C. General Statute section 133-24 in connection with the proposal, (2) the candidate has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with its proposal, and (3) the candidate intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor. The neuter includes the masculine and the feminine. The candidate to which this Non-Collusion Affidavit refers is:

(insert name of candidate)

(signature of individual)

ACKNOWLEDGMENT

Type or print name of the individual who signed the affidavit:

Type or print the name of Notary Public signing this acknowledgment:

Place where acknowledgment occurred: County of _____, State of _____

Notary's residence : County of _____, State of _____

I, the Notary Public named above, certify (1) the individual named above personally appeared before me this day, (2) I have personal knowledge, or satisfactory evidence, of the individual's identity; and (3) the individual acknowledged signing the foregoing affidavit.

This the ____ day of _____, 20 ____.

Notary Public

My commission expires:

COVER LETTER WITH PROPOSAL

250. Cover letter. The proposal should contain a cover letter, signed by a principal of the candidate. The cover letter should contain the following statement:

The undersigned, whose title and position with the candidate are stated next to or beneath his or her signature, has the authority to submit this proposal (including this cover letter) on behalf of the candidate in response to the City of Durham's Request for Proposals.

Unless otherwise clearly stated in this response to the RFP, our proposal accepts the terms and conditions stated in the RFP, including the description of services to be performed and the provisions of the contract to be signed.

The cover letter should contain one of the following two paragraphs A or B. If (i) the cover letter lacks both paragraph A and paragraph B, or (ii) the cover letter contains paragraph A but fails to comply with the instructions in the section of the RFP titled "Trade Secrets and Confidentiality," the City may treat everything it receives from the candidate as NOT trade secret or confidential, and the City may disclose to the public everything it receives from the candidate.

A. With respect to all trade secrets that the candidate may submit to the City in connection with this proposal or the contract, if the contract is awarded to the candidate, the candidate shall comply with the section of the RFP

titled "Trade Secrets and Confidentiality," including all of its subsections, including the subsection titled "Defense of City." The candidate acknowledges that the City will rely on the preceding sentence.

-or-

B. The candidate is not submitting any trade secrets to the City in connection with this proposal or the contract; if the contract is awarded to the candidate, the candidate will not submit any trade secrets to the City in connection with this proposal or the contract. The candidate acknowledges that the City will rely on the preceding sentence.

The cover letter is to contain either of the following statements, A or B.

A. This proposal is an offer that cannot be revoked before 4:30 PM on May 6, 2024. The City may allow the candidate to withdraw the offer by sending written withdrawal permission that refers specifically to this provision.

-or-

B. This proposal is not an offer, and the candidate retains the right to decline to enter into a contract with the City for this project.

260. Addendums. The cover letter should list the last addendum that the City issues for this RFP, with a statement such as *The undersigned candidate has read all the addendums issued by the City for this RFP, through and including Addendum No. ____.* In that blank the candidate should list the number of the last addendum.

HOW TO SUBMIT A PROPOSAL

270. How to submit a proposal.

Candidates should submit their proposals via email to: jim.reingruber@durhamnc.gov as noted in the "Project Manager and Contact with City" section at the beginning of this RFP.

Use the following as your Subject line in the email: "Human Resources Temporary Staffing RFP"

Proposals are to be received no later than August 8, 2024 at 4:30 pm. If you do not receive confirmation of receipt within 24 hours of submitting your proposal, please contact Jim Reingruber at 919-560-4214 or jim.reingruber@durhamnc.gov.

280. Format. Proposals should be submitted in PDF format.

290. Alternative Proposals. If you wish to submit a proposal that does not comply with the City's standards and expectations, consider submitting two proposals: a proposal that complies, plus a proposal that does not comply, so that your "non-compliant" version can be considered as an alternative if the City is interested. This will allow your compliant version to be considered if the City remains steadfast on applying the standards and expectations.

300. Candidate to Bear Expense; No Claims against City. No candidate will have any claims or rights against the City arising out of the participation by a candidate in the proposal process. No candidate will have any claims or rights against the City for the City's failure to award a contract to it or for awarding a contract to another person, firm, or corporation, regardless of whether the other person, firm, or corporation participated in the RFP process or did not submit a proposal that complied with the RFP. A notice of award will not constitute acceptance by the City; the City's only method of acceptance is the City's execution of a formal contract in accordance with law.

310. State Treasurer's lists regarding Iran and Boycott of Israel. If the value of the contract is \$1,000 or more, the following applies unless the candidate otherwise states in its proposal: the candidate affirms (by submitting a proposal) that (1) its name does not appear on the list of companies that are engaged in a boycott of Israel developed by the N. C. State Treasurer under N.C.G.S. 147-86.81(a)(1) or on a list created by the Treasurer pursuant to N.C.G.S. 147-86.58 as a company engaging in investment activities in Iran, and (2) it has no reason to expect that its name will appear on either of those lists. Take notice that a contract between a company named on either list and the City may be void.

320. Notice Under the Americans with Disabilities Act. A person with a disability may receive an auxiliary aid or service to effectively participate in city government activities by contacting Durham One Call at 919-560-1200 or ADA@DurhamNC.gov, as soon as possible but no later than 48 hours before the event or deadline date.

Aviso en virtud de la Ley de Estadounidenses con Discapacidades -- Con el fin de recibir un recurso o servicio auxiliar para participar de manera efectiva en las actividades del gobierno de la ciudad, cualquier persona con una discapacidad puede comunicarse con la línea Durham One Call al teléfono 919-560-1200 o al correo ADA@DurhamNC.gov, tan pronto como sea posible, a más tardar 48 horas antes del evento o fecha límite.

330. Values of City of Durham regarding Treatment of Employees of Contractors

A. Statement of City EEO Policy. The City of Durham opposes discrimination in employment because of race, color, religion, sex, national origin, disability, familial status, military status, sexual orientation, gender identity, and protected hairstyle. Consistent with Chapter 34 (Non-Discrimination) of the Durham City Code, the City requires that firms doing business with the City:

1. not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, familial status, military status, sexual orientation, gender identity, and protected hairstyle.
2. take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, national origin, sex, disability, familial status, military status, sexual orientation, gender identity, and protected hairstyle. This action includes employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
3. state, in solicitations or advertisement for employees, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, disability, familial status, military status, sexual orientation, gender identity, and protected hairstyle.
4. include this Statement of City EEO Policy in every purchase order for goods to be used in performing City contracts and in every subcontract related to City contracts.

B. Livable Wage. The City of Durham desires that firms doing business with the City pay their workers a livable wage rate while working on City contracts. The livable wage rate is \$19.58 per hour through June 30, 2025. The City will re-set the rate for the period after June 30, 2025.

---- End of RFP ----

EQUAL BUSINESS OPPORTUNITY PROGRAM

It is the policy of the City to provide equal opportunities for City contracting for underutilized firms owned by minorities and women doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct present effects of past discrimination and to resolve complaints of discrimination. This policy applies to all professional services categories.

The design goals for this project are 8% M/UBE and 6% W/UBE. In accordance with the Ordinance, all proposers are required to provide information requested in the Professional Services Forms package included with this request. Proposals that do not contain the appropriate, completed Professional Services Forms may be deemed non-responsive and ineligible for consideration. The UBE Participation Documentation and the Letter of Intent to Perform as a Sub-consultant documents are required of all proposers. The Request to Change UBE Participation and "UBE Goals Not Met/Documentation of Good Faith Efforts" forms are not applicable at this time.

The Department of Finance is responsible for the Equal Business Opportunity Program. All questions about Professional Services Forms should be referred to department staff at (919) 560- 4180.

LISTING OF HUB VENDORS

*We cannot speak to the availability of these firms.

Firm	Contact	Email	Phone	Address	City	County	HUB
Accentuate Staffing	Mike Morgan	mike@accentuatestaffing.com	(919) 844-2900	3200 Fairhill Drive	RALEIGH	Wake	W
ADVANCED PERSONNEL RESOURCES INC	Diane Gaines	dianegaines@aprin.com	(336) 272-7720	PO Box 4923	Greensboro	Guilford	W
Alliance of Professionals & Consultants, Inc	Troy Roberts	troberts@apcinc.com	(919) 510-9696	8200 Brownleigh Drive	Raleigh	Wake	M
Ashlen Enterprises, LLC DBA Ashlen Staffing Solutions	Valosha Ashleigh Odum	aodom@ashlenenterprises.com	(336) 554-3092	105 BRANTMERE CT	JAMESTOWN	Guilford	M
Be One To Succeed Staffing, LLC	Gloria Hairston	botsstaffing@gmail.com	(336) 391-4012	301 North Main St.,	Winston Salem	Forsyth	M
C&P Legacy Staffing	Sharice Potts	spotts@cptstaffing.com	(919) 332-9567	125 Steel Hopper Way	Garner	Wake	M
Cardinal Healthcare Staffing Agency	Ashley Mitchell	ashley@cardinalhealthcarestaffing.com	(336) 920-9646	1215 Eastchester Drive	High Point	Guilford	M
Cleve Wagstaff Stone Masonry LLC	Cleve Wagstaff	clevevagstaff@embarqmail.com	(336) 597-1393	309 Wagstaff-Carver Road	Roxboro	Person	W
Community Connect Staffing Solutions LLC	Timothy Glass	tim@communityconnectss.com	(312) 446-4793	2608 Erwin Rd	Durham	Durham	M
Compassion in Care Nurse Staffing	Lawonza Ramsey	lawonza@yahoo.com	(609) 458-8487	1100 S Stratford Rd	Winston-Salem	Forsyth	M
CONSTRUCTION LINK STAFFING LLC	Kristin Branch	clstaffing@mail.com	(336) 710-3710	515 Catfish Lake Dr	Fuquay Varina	Wake	W
CORNERSTONE HEALTHCARE STAFFING LLC	JOSEPH NYAGAH	cornerstonehs@gmail.com	(919) 410-7813	4242 Six Forks Road,	RALEIGH	Wake	M
DATASTAFF INC	Glynda Mealer	gmealer@datastaffnc.com	(919) 874-0009	100 E. Six Forks Road	RALEIGH	Wake	W
Davis Technical Staffing	Jeneil Davis	jdavis@dtsolutions.com	(919) 651-8115	2232 Page Road, Suite 102	Durham	Durham	M
Developmental Associates	Heather Lee	hlee@developmentalassociates.com	(919) 813-6096	510 Meadowmont Village Circle	Chapel Hill	Orange	W
EDI Integrated Business Solutions	Mya Woods	info@ediibs.com	(919) 244-0274	1204 Village Market Place #101	Morrisville	Wake	M
FOCAL POINT MEDICAL STAFFING, INC.	BURGUNDI HERRING	director@focalpointstaff.com	(252) 281-7159	8356 six forks rd.	RALEIGH	Wake	M
Frankel Staffing Partners	Lee Frankel	leef@frankelstaffing.com	(919) 783-6300	3724 National Drive	Raleigh	Wake	W
Genius Talent	Daniel Freeman	dfreeman@geniustalentgroup.com	(804) 218-0059	12408 Penrose Trl	Raleigh	Wake	M
Greensboro Staffing Consultants	Willie Gaddy	wmgaddy@gsostaffing.com	(336) 355-8708	PO Box 83	Oak Ridge	Guilford	M
Hero Staffing LLC	April Patrick	apatrick@herostaffing.co	(910) 499-3756	4242 Six Forks Rd	Raleigh	Wake	M
Hire Strategies	Sonya Hopson	shopson@hire-strategyes.com	(919) 615-3105	2443 Lynn Road	Raleigh	Wake	M
Interim Healthcare of the Triangle	Donna Byrd	lbyrd@interimhealthcare.com	(919) 493-7575	3710 University Drive	Durham	Durham	W
Kseniag Solutions Inc.	Kathy Gaines	kathy.gaines@kseniagsolutions.com	(919) 604-8400	4441 Six Forks Rd.	Raleigh	Wake	M
More2Staffing LLC	Michael Watson	mwatson@more2staffing.com	(336) 439-7021	2579 Eric Lane	Burlington	Alamance	M
Not Just Staffing LLC	Nakisha McCain	nmccain@njstaffing.org	(743) 251-2501	644	Burlington	Alamance	M
OneStop Medical Staffing Solutions	Alexander Acquaah	aacquaah@onestopmedstaff.com	(508) 345-6851	9121 Anson Way, Raleigh, NC 27615	Raleigh	Wake	M
Piedmont Staffing Solutions, Inc.	Sharon Spencer	sharonspencer@yahoo.com	(336) 625-2229	854 S. Cox Street	Asheboro	Randolph	W
POTOMAC TRIANGLE LLC DBA POTOMAC TRIANGLE STAFFING	Caroline Sogomo	ptrianglestaffing@gmail.com	(919) 446-1360	310 hillview dr	Durham	Durham	M
Primal Staffing	Robert Hicks	Robert.Hicks@primalstaffing.com	(404) 990-1844	8801 Fast Park Dr	Raleigh	Wake	M
Protege Staffing Inc	Saprina Smith	renasmith@protegeservices.com	(336) 777-8823	904 S. Marshall Street	Winston-Salem	Forsyth	W
PVA, INC.	Anita Clay	anita@pvaglobal.com	(336) 506-9003	2814 Eric Lane	Burlington	Alamance	W
QUALITY STAFFING SOLUTIONS INC	Kara Bertoncino	kbertoncino@quality-staffing.com	(919) 481-4114	5540 Centerview Drive	Raleigh	Wake	W
Redefined Staffing	Toni Gentry	Tonigentry@redefinedstaffing.org	(336) 414-0173	915 Bridge St	Winston Salem	Forsyth	M
Rook-Brew's Healthcare Staffing Services, LLC	Tiffany Rook	RookBrewsHCS@outlook.com	(336) 523-9481	8025 North Point Blvd.	Winston Salem	Forsyth	M
RTriad Enterprises, LLC	Kevin Robinson	kevin@rtriad.com	(336) 905-6939	101 S. Elm Street	Greensboro	Guilford	M
Staffing Strategies, Inc DBA Express Emp	Pamela Higdon	pam.higdon@expresspros.com	(919) 572-6755	5306 NC Hwy 55, Ste 103	Durham	Durham	W
Stafford Act and Disaster Recovery Services	Ileetha Groom	igroom@staffordact-dr.com	(888) 610-8784	371 Coalyard Drive	Raleigh	Wake	M
The Accuro Group Inc.	Prateek Gattani	prateek@accurogroup.com	(919) 673-1121	2301 Sugar Bush Road	Raleigh	Wake	M
The Staffing Firm LLC	Jameka Leathers	jameka@thestaffing-firm.com	(984) 777-3510	8480 Honeycutt Road	Raleigh	Wake	M



FINANCE

CITY OF DURHAM

EQUAL BUSINESS OPPORTUNITY PROGRAM

PROFESSIONAL SERVICES
FORMS



JUNE 2023



FINANCE

CITY OF DURHAM

ABOUT THE PROGRAM

The City's **Equal Business Opportunity Program (EBOP)** is specified by City Ordinance (City of Durham Code of Ordinances, Chapter 18, Article III). As stated in the ordinance, the purpose of the program is to provide equal opportunities for city contracting for underutilized business enterprises owned by minorities and women doing business in the city's contracting marketplace. It is further the policy of the city to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct the present effects of past discrimination and to resolve complaints of discrimination.

The **Small Local Business Enterprise (SLBE)** program works to increase employment opportunities for our residents and to enhance our tax base by promoting City contracting opportunities for small local business enterprises. The SLBE program is for construction of up to \$500,000 and professional services contracts \$100,000 or less. Firms that meet program requirements may apply to be part of the program. Only firms in the SLBE program will receive advertisements and be eligible to bid on SLBE projects.

An **Underutilized Business Enterprise (UBE)** is a business, certified by the N. C. Department of Administration HUB Office, N.C. Department of Transportation or the U.S. Small Business Administration Section 8(a) Business Development Program as a minority or women business enterprise. The qualifying UBE needs to have its certification from one of the above-named entities before the bid opening if it is to count toward meeting the goals. Failure to provide evidence of UBE status may disqualify the firm's participation for the purpose of meeting UBE goals. For purposes of this document and associated forms, any reference to an "UBE," or similar reference shall include reference to a qualified women or minority owned firm certified and approved in accordance with the above paragraphs.



FINANCE

CITY OF DURHAM

SELECTION OF CONSULTANTS/CONTRACTORS FOR ARCHITECTURAL/ENGINEERING AND OTHER PROFESSIONAL SERVICES

The Finance Director shall determine UBE participation goals for each contracting category to be awarded by the City. Goals for each project or contract will be based upon the availability of UBEs within the defined scope of work, delineated into percentages of the total value of the work.

Selection Committee for Professional Services

A selection committee shall be established and may be composed of the following: City Manager or a designated representative of this office; Director of Finance or a designated representative of this office; department head responsible for the project; City Engineer if engineering services are involved; and the Purchasing Manager or designee. Other representatives shall be called upon as needed based on their areas of expertise.

The committee shall screen projects based on the following criteria:

1. Firms' interest in the project;
2. Current work in progress by firm;
3. Past experience with similar projects;
4. General proposal for carrying out the required work;
5. Designation of key personnel who will handle the project, with resume for each;
6. Proposed associate consultants/contractors, UBE subconsultants;
7. Indication of capability for handling the project;
8. Familiarity with the project;
9. Fees that have been charged for recent comparable projects;
10. References;
11. UBE Participation; and
12. Documentation of Good Faith Efforts should UBE participation requirements not be met.

After ranking the firms presenting proposals based on the above criteria, interviews will be conducted by the selection committee with the top ranked firms (3-5). The contracting department will make the final recommendation, prepare contracts for review by the City Attorney, and prepare the recommendation for the City Council including the following:

1. Description and scope of the project;
2. Recommended firm;
3. Contract cost;
4. Time limits;
5. Basis for selection;
6. Source for funding;
7. Equal Business Opportunity Ordinance compliance; and
8. Recommendation that the contract be approved by the City Council.

Contract Award

A provision must be written in each contract with an architect or engineer requiring them to work with Finance Department in creating and identifying separate work.

Project Evaluation

An evaluation shall be made of each contract after its completion to be used in consideration of future professional services contracts. The evaluation shall cover appropriate items from the check list for ranking applicants. A copy of the evaluation shall be given to the consultant, and any comment he/she cares to make shall be included in the files.



EBOP FORM INSTRUCTIONS

FOR USE IN PROFESSIONAL SERVICES PROJECT PROPOSALS WITH THE CITY OF DURHAM

These instructions summarize the provisions of the City of Durham's Equal Business Opportunity Ordinance as it applies to the proposal process. Of course, as with any summary, it cannot reflect all of the ordinance.

Forms:

- Underutilized Business Participation Documentation
- Intent to Perform as a Sub-consultant/Subcontractor
- Post Proposal Submission UBE Deviation
- Documentation of Good Faith Efforts

FORM	NECESSARY?	WHEN TO SUBMIT?
Underutilized Business Participation documentation	Always required.	With the proposal.
Intent to Perform as a Sub-consultant/Subcontractor	Required for any UBEs proposed to perform on contract to count toward UBE goals.	With the proposal.
Post Proposal Submission UBE Deviation	Required to report any deviation from UBE participation prior or subsequent to startup of the project.	If the proposed sub-consultant/subcontractor is unable to perform; substitutions both prior to and after awarding of a contract are subject to City approval.
Documentation of Good Faith Efforts	Required if the proposal fails to meet the established UBE goals. Whenever contract alternatives, amendments, or extra work orders which increase the total value of the original contract, consultant must make a good faith effort to increase UBE participation such that amounts subcontracted are consistent with established goals.	With the proposal unless otherwise stated by the City.



UNDERUTILIZED BUSINESS PARTICIPATION DOCUMENTATION

FORM INSTRUCTIONS

1. Click on the text fields to enter the name of the prime and the name of the project.
2. Input the goals for this project as provided by the UBC representatives. Enter the minority-owned UBE goal and the women-owned UBE goal separately. You do not need to enter the percent (%) symbol.
3. Complete the information in the table for minority-owned UBE sub-consultants or contractors, including the name of the subcontractor, the goods and services to be provided, and the percentage of project work. The Total MBE percentage of work will auto-calculate.
 - a. If you plan on using more than five MBEs in the proposal, please enter "see attached" in the name column of the fifth line and enter the total percentage of project work for all remaining MBEs in the "% of project work" column of the fifth line. Attach a second copy of this form with the remaining MBEs listed.
4. Repeat step 3 for women-owned UBE sub-consultants or subcontractors.
5. Based on the information you have input, the MBE and WBE percentage of the proposal will be auto-calculated. Use the dropdown to select whether or not the UBE goals for the project have been met (they are met if the percentages achieved are greater than the goals).
 - a. If you do not meet both goals, you must complete the Good Faith Effort.
6. Click on the text fields to add the name and signature of the authorized officer of the prime (e-signature accepted).

INTENT TO PERFORM AS A SUB-CONSULTANT/ SUBCONTRACTOR

FORM INSTRUCTIONS

The prime must provide this form for each UBE firm that is proposed to perform on the contract..

1. Click on the text fields to enter the prime consultant/contractor information including the name of prime and the name of the project..
2. Enter a description of the work this UBE intends to perform and a proposed commencement and completion date for each task.
3. Enter the value of the total contract the UBE intends to perform as a percentage of the total contract. If a dollar value of the subcontract is known, enter that information.
4. Enter the contact information for the UBE subcontractor or sub-consultant, including the name of the authorized representative of the UBE, their title, the company name, a telephone number and an address. The authorized representative should sign (e-signature accepted) the bottom of the form.

REQUEST TO CHANGE UBE PARTICIPATION

This form is to be used to report any deviation from UBE participation either prior to or subsequent to the startup of the project. The Finance Department must be notified if proposed sub-consultant/subcontractor is unable to perform and for what reasons.

Substitutions of subcontractors in these circumstances, both before and after the awarding of a contract, are subject to City approval. Consult the City's Finance Department on the procedures to follow in order to comply with City Code 26- 10(c).

FORM INSTRUCTIONS

1. Click on the text fields to enter the prime information including the name of the bidder/consultant, the name of the project, name and title of the bidder/contractor authorized representative, telephone number, address, and email address.
2. Enter the total dollar amount of the contract.
3. Enter the total dollar amount of the contract including changes to date, but not those proposed on this form.
4. Indicate whether the changes proposed on this form will increase, decrease, or not change the value of this contract. If they will increase or decrease the value of this contract, enter the dollar amount of the increase or decrease in the text boxes.
5. Enter the name of the subcontractor proposed to be changed on this form. Indicate whether this is a MBE, WBE, or not a UBE and enter a description of the goods or services to be provided before this change.
6. Describe the nature of the change to this subcontract.
7. Enter the dollar value of the subcontract before the change proposed on this form and the dollar value of the subcontract after the change proposed on this form.
8. If you will be substituting a new subcontractor for the one listed to be changed, enter the name of the subcontractor, indicate whether this is a MBE, WBE, or not a UBE, and describe the goods or services to be provided by this substitute.

GOOD FAITH EFFORTS DOCUMENTATION

Primes that do not attain the UBE goals have the responsibility to make good-faith efforts and to demonstrate to the City that they have made such efforts. Good Faith Efforts means the sum total of efforts by a particular business to provide equitable participation of minority-owned and women-owned individuals or businesses as sub-consultants/subcontractors.

Whenever contract alternatives, amendments or extra work orders are made individually or in aggregate which increase the total value of the original contract, the consultant must make a good faith effort to increase UBE participation such that the amounts subcontracted are consistent with the established goals.

FORM INSTRUCTIONS

1. Click on the text fields to enter the name of the prime and the name of the project.
2. For questions 1-7 and 13-14, indicate whether or not the specified effort was made. If you did not make the specified effort, select "no" and use the text field to explain the facts (why the specified effort was not made).
3. For question 8, please attach the names and contact information for any UBEs you contacted. Note, you do not need to provide this information for any UBEs for which you are providing an Letter of Intent to Perform as a Sub-consultant/subcontractor form.
4. For questions 9-10 and 12, please use the text boxes to state the facts.
5. For question 11, indicate whether or not the specified effort was made.



Underutilized Business Participation documentation

Name of Prime:

Name of Project:

UBE Goals

Please input the UBE goals for this contract as provided by the City underutilized business compliance (UBC) representatives. You do not need to enter the percent (%) symbol.

Minority-owned business goal: %

Women-owned business goal: %

Minority-owned UBE Participation

Name of MBE	Nature of participation	% of project work
		%
		%
		%
		%
		%

Please see instructions if your proposal includes more than five MBE participants

Total MBE (%): %

Women-owned UBE Participation

Name of WBE	Nature of participation	% of project work
		%
		%
		%
		%
		%

Please see instructions if your proposal includes more than five WBE participants

Total WBE (%): %

Are the MWBE goals met?

Please use the dropdown to select whether each goal has been met.

MBE percentage achieved: %

WBE percentage achieved: %

If you did not meet both goals you are required to make good faith efforts, to provide documentation of these efforts and to sign the statement below.

Name of Authorized Officer of Prime Consultant/Contractor Firm:

Signature of Authorized Officer of Prime Consultant/Contractor:

Firm: Date:



Intent to Perform as Sub-consultant/Subcontractor

This form is required for any subcontracts proposed to count toward the UBE goals. It is due with the proposal.

Name of prime:

Name of project:

The undersigned firm meets the City of Durham's criteria as an Underutilized Business Enterprise (UBE). The undersigned UBE is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed):

Description of Work	Projected Commencement Date	Projected Completion Date
---------------------	-----------------------------	---------------------------

Percentage of proposed subcontract:

% of the dollar value of this contract

Dollar amount of proposed subcontract:

The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract with the City of Durham.

The undersigned will enter into a formal agreement in the amount of conditioned upon your execution of a contract with the City of Durham.

Name:

Title:

Company:

Telephone Number:

Address:

Signature of authorized representative:



Request to Change UBE Participation

This form is required if the prime proposes changes in subcontracting and is due before the bidder/consultant can make the proposed change.

Name of bidder/consultant:

Name of project:

Name and title of bidder/
contractor representative:

Telephone number:

Address:

Email address:

Total original contract amount (\$):

Total amount of contract including changes to
date, but not those proposed on this form (\$):

This proposed change will (mark one):

increase the value of the contract by:
decrease the value of the contract by:
not change the value of the contract.

Subcontract to be changed

Name of subcontractor:

This subcontractor is (mark one):

Minority-owned UBE
Women-owned UBE
Not a UBE

Goods/services to be provided
before proposed change:

Describe the nature of this change:
(e.g. "adding \$5,000 in concrete work",
"eliminating \$7,000 in grading")

Subcontract dollar amount before proposed change:

Subcontract dollar amount after proposed change:

Substitute Sub-consultant (if applicable)

Name of sub-consultant
for new work:

This subcontractor is (mark one):

Minority-owned UBE
Women-owned UBE
Not a UBE

Goods/services to be provided:

Good Faith Efforts

This form is required if the prime fails to meet the UBE goals and is due with the proposal unless otherwise stated.

Name of prime:

Name of project:

Unfortunately, you have failed to meet the UBE participation goals set for this contract.

You must complete the following questionnaire to explain the reasoning. If the answer is "no," please explain the facts in the space provided. All answers to these questions relate only to the time before your firm submitted its bid or proposal to the City. Actions your firm took after it submitted the bid or proposal cannot be used in any answers.

Soliciting Underutilized Business Enterprises (UBEs)

- | | | |
|---|-----|----|
| 1. Did your firm solicit through all available means, the interest of all UBEs in the scopes of work of the contract (e.g. those in the list provided by the City)? | Yes | No |
| 2. In soliciting, did your firm advertise?
If yes, name of newspaper or other publication:
date advertisement appeared: | Yes | No |
| 3. In soliciting, did your firm send written or electronic notices or letters?
If yes, please attach a sample. | Yes | No |
| 4. Did your firm attend the pre-bid conference? | Yes | No |
| 5. Did your firm provide interested UBEs with timely, adequate information about the plans, specifications, and requirements of the contract? | Yes | No |
| 6. Did your firm follow up with UBEs that showed interest? | Yes | No |

Breaking down work

- | | | |
|--|-----|----|
| 7. Did your firm select portions of the work to be performed by UBEs to increase the likelihood that goals would be reached?
If yes, please describe the portions selected. | Yes | No |
|--|-----|----|

Good Faith Efforts (continued)

Negotiation

You do not need to provide this information for any UBEs for which you are providing an Intent to Perform as a Subcontractor form.

- | | Yes | No |
|---|-----|----|
| 8. Please provide the names, addresses and telephone numbers of UBEs that you contacted in an attachment. Have you included this attachment? | | |
| 9. Describe the information you provided to the UBEs regarding the plans and specifications for the work selected for final potential subcontracting. | | |
| 10. Why could your firm not reach agreements with the UBEs that your firm made contact with? | | |

Assistance to UBEs on Bonding, Credit, and Insurance

- | | Yes | No |
|--|-----|----|
| 11. Did your firm or the City require any subcontractors to have bonds, lines of credit or insurance? | | |
| 11b. If yes , did your firm make efforts to assist UBEs to obtain bonds, lines of credit, or insurance? | | |
| 11c. Did your firm provide alternatives to bonding or insurance for potential subcontractors? | | |

Goods and Services

12. What efforts did your firm make to help interested UBEs to obtain goods or services relevant to the proposed subcontracting work?

Using Other Services

- | | Yes | No |
|---|-----|----|
| 13. Did your firm use the services of the City to help solicit UBEs for the work? | | |
| 14. Did your firm use the services of available minority/women community organizations, contractors' groups, government-sponsored minority/women business assistance agencies, and other appropriate organizations to help solicit UBEs for the work? | | |

EXHIBIT A – Sample Contract

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

CONTRACT FOR TEMPORARY STAFFING SERVICES

This contract is dated and entered into as of the ____ day of _____, 20____, by the City of Durham (“the City”), a North Carolina municipal corporation, and _____ [name of firm] (“the Contractor”), [Indicate type of entity, for instance:

*a corporation organized and existing under the laws of [name of State];
a non-profit corporation organized and existing under the laws of [name State];
a limited liability company organized and existing under the laws of [name of State];
a professional corporation organized and existing under the laws of [name of State];
a professional association organized and existing under the laws of [name of State];
a limited partnership organized and existing under the laws of [name of State];
a sole proprietorship;
or a general partnership*

Sec. 1. Background and Purpose. To provide temporary staffing services for City departments, to include referring temporary staff for consideration to fill temporary staffing needs.

Sec. 2. Services and Scope to be Performed. Presumption that Duty is Contractor’s. The Contractor shall [state the services to be provided and the schedule for those services here or incorporate reference to an exhibit (if necessary) that provides such detail]. In this contract, “Work” means the services that the Contractor is required to perform pursuant to this contract and all of the Contractor’s duties to the City that arise out of this contract. Unless the context requires otherwise, if this contract states that a task is to be performed or that a duty is owed, it shall be presumed that the task or duty is the obligation of the Contractor.

Sec. 3. Term of Contract. The contract term shall begin _____ [month], ____ [day] 20____ and end _____ [month], ____ [day] 20____.

Sec. 4. Contractor’s Billings to City. Compensation. (a) The City shall pay the Contractor for the Work as follows: *how compensation is to be made (e.g., lump sum, time and materials, unit prices, progress payments, etc.; the timing of payments; and how amounts are calculated for invoicing (e.g., % completion, pre-determined proration, etc.).* The total dollar amount to be paid under this contract by the City to the Contractor shall not exceed \$ _____ [(insert amount).] The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section or by Section 14 (Termination for Convenience (“TFC”)).

(b) The Contractor shall send invoices to the City on a monthly basis for the amounts to be paid pursuant to this contract. Each invoice shall clearly show project name, the City’s project/accounting number, and any other information reasonably requested by the City. Within thirty days after the City receives an invoice, the City shall send the Contractor a check or electronic funds transfer in payment for all undisputed amounts contained in the invoice.

Sec. 5. Insurance. The contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following applicable coverages and limits. The requirements contained herein, as well as the City’s review or acceptance of insurance

maintained by Contractor, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability, Cross Liability, or Personal and Advertising Injury Liability.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a City of Durham site.

Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest ‘Each Occurrence’ limit for required policies. Contractor agrees to endorse the City of Durham as an ‘Additional Insured’ on the Umbrella or Excess Liability unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a ‘Follow-Form’ basis.

Worker’s Compensation & Employers Liability – Contractor agrees to maintain Worker’s Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with Employer Liability limits of no less than \$1,000,000 for each accident, each employee, and policy limit. This policy must include a Waiver of Subrogation.

Additional Insured – The contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability. The Additional Insured shall read City of Durham as its interest may appear.

Certificate of Insurance – Contractor agrees to provide City of Durham a Certificate of Insurance evidencing that all coverage, limits, and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor’s insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address should read:

City of Durham
Attn: (Insert Name of Department maintaining the Contract)
101 City Hall Plaza
Durham, NC 27701

All primary insurance carriers must be authorized to do business in North Carolina.

Sec. 6. Exhibits. The following exhibits are made a part of this contract:

Exhibit A - [Insert title of exhibit], containing [insert number] page(s).

Exhibit B - [Insert title of exhibit], containing [insert number] page(s).

Except in the case of exhibits containing required federal clauses, if there is conflict between an exhibit and the text of this contract excluding the exhibit, the text of this contract shall control.

Sec. 7. Notice Addresses. For purposes of Section 12 of the General Conditions (Notice), and subject to change pursuant to subsection 12(d), the addresses for these notices are as follows:

To the City:

Jim Reingruber, Assistant Director, Human Resources
City of Durham
101 City Hall Plaza
Durham, NC 27701-3329
Email:

To the Contractor:

[Insert name and address]
The fax number is _____.
Email:

Sec. 8. Special Provisions. [This section is intended to address any additional contractual terms that may be unique or special to the project or work to be performed. If not used, write "Reserved." Any special provisions should be placed under lettered subsections, with underlined titles. For example, "(a) Ownership of Documents, (b) Liquidated Damages, (c) Intellectual Property, etc.]

GENERAL CONDITIONS

Sec. 9. Complete Work without Extra Cost. Except to the extent otherwise specifically stated in this contract, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

Sec. 10. Performance of Work by City. If this contract requires the Work be completed according to a schedule, and the Contractor fails to perform the Work in accordance with the required schedule, the City may, in its discretion, in order to bring the project closer to the schedule, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Contractor notice of its intention. The Contractor shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

Sec. 11. Prompt Payment to Subcontractors. (a) Within 7 days of receipt by the Contractor of each payment from the City under this contract, the Contractor shall pay all subcontractors (which term includes subconsultants and suppliers) based on work completed or service provided under the subcontract. Should any payment to the subcontractor be delayed by more than 7 days after receipt of payment by the Contractor from the City under this contract, the Contractor shall pay the subcontractor interest, beginning on the 8th day, at the rate of 1% per month or fraction thereof on such unpaid balance as may be due. By appropriate litigation, each subcontractor shall have the right to enforce this subsection (a) directly against the Contractor but not against the City.

(b) If the individual assigned to administer this contract for the City (in this section, titled "Prompt Payment to Subcontractors," he or she will be referred to as the "Project Manager") determines that it is appropriate to enforce subsection (a) in this manner, the City may withhold from progress or final payments to the Contractor the sums estimated by the Project Manager to be

- (i) the amount of interest due to the subcontractor under subsection (a), and/or
- (ii) the amounts past-due under subsection (a) to the subcontractor but not exceeding 5% of the payment(s) due from the City to the Contractor.

This subsection (b) does not limit any other rights to withhold payments that the City may have.

(c) Nothing in this section shall prevent the Contractor at the time of invoicing, application, and certification to the City from withholding invoicing, application and certification to the City for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment, and materials; damage to Contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by the City.

(d) The Project Manager may require, as a prerequisite to making progress or final payments, that the Contractor provide statements from any subcontractors designated by the Project Manager regarding the status of their accounts with the Contractor. The statements shall be in such format as the Project Manager reasonably requires, including notarization if so specified.

Sec. 12. Notice.

(a) In General. This subsection (a) pertains to all notices related to or asserting default, breach of contract, claim for damages, suspension or termination of performance, suspension or termination of contract, and extension or renewal of the term.

(b) Means of Delivery of Notice. ((i) Common Carrier. All such notices shall be in writing and sent by common carrier or personal delivery. Those sent by common carrier shall include instructions to obtain the recipient's signature and/or a signature at the recipient's address. Common carrier means UPS, FedEx, a designated delivery service authorized pursuant to 26 United States Code 7502(f)(2), or United States Postal Service. (ii) Notice given by Personal Delivery. If the sender causes the notice to be hand delivered to a natural person 18 years or older at the address of the Contractor indicated under subsection Section 7 (Notice Addresses) above, notice is deemed given. (iii) Common Carrier Leaves Notice. If the sender obtains a signature through a common carrier pursuant to subsection (i), notice is deemed given. If, however, the common carrier does not obtain such a signature between 8:30 AM – 4:30 PM Monday-Friday on a day that is not a Holiday but leaves the notice in a place that it deems safe without obtaining a signature, this process constitutes delivery of the notice provided that the sender also sends the notice by email or fax. Notice is deemed given on the later of (x) the leaving of the notice by the common carrier and (y) the email or fax. A notice is deemed emailed on the date that the sender attempts to send it. A notice is deemed faxed at the earlier of when successfully received or when faxing is unsuccessfully attempted three times at least ten minutes apart. (iv) Requested Additional Method. Regardless of the method of giving notice, the sender is requested but not required to also send it by fax or email.)

(c) When Undeliverable Notice Is Deemed Sent by Common Carrier. If a notice sent by common carrier is undeliverable because the address or other information provided to the sender by the other party (the intended recipient) is incorrect, incomplete, or out of date, or for any other reason; and the sender also sends the notice by fax or email, notice is deemed given on the later of (x) the sender's placing the notice in the custody of the common carrier and (y) the fax or email. A notice is deemed emailed on the date that the sender attempts to send it. A notice is deemed faxed at the earlier of when successfully received or when faxing is unsuccessfully attempted three times at least ten minutes apart.

(d) Change of Address. A change of address, fax number, email address, telephone number, or person to receive notice shall be made by notice given to the other party.

Sec. 13. Indemnification. (a) Standard Indemnification Provision. This section shall be applied to the maximum extent allowed by law, but it shall be construed and limited as necessary to comply with NCGS § 22B-1. The Contractor shall defend, indemnify, and hold harmless Indemnitees

from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or its Derivative Parties. In performing its duties under this subsection, the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City. "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses. Included without limitation within "Charges" are (1) interest and reasonable attorney's fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract. By appropriate litigation, each Indemnitee, severally, shall have the right to enforce this section directly against the Contractor, but not against the City.

(b) Definitions. These definitions apply to this section only unless otherwise stated.

- (i) The words "Construction Agreement", "Derivative Parties", "Design Professional", "Design Professional Agreement", "Design Professional Services", "Fault", and "Subcontractor" as used in this section shall have the meanings defined by NCGS §22B-1.
- (ii) "Contractor" – Each party to this Agreement except the City of Durham.
- (iii) "Indemnitees" means the City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.
- (iv) In this section, except as used in subsection (a), "Defend" means to pay for or furnish counsel at the expense of the Contractor to defend any of the Indemnitees against claims alleged or brought against any of the Indemnitees by a third party alleged or brought in any court or other tribunal, including forms of alternative dispute resolution required by law or contract, before the court or tribunal has reached a final determination of fault.

(c) Insurance Contracts and Bonds. This section does not affect an insurance contract, workers' compensation, or any other agreement issued by an insurer; and this section does not apply to lien or bond claims asserted under NCGS Chapter 44A.

(d) Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.

(e) If this contract is a Construction Agreement or a Design Professional Agreement, the following restrictions and qualifications apply to the Standard Indemnification Provision of subsection (a):

- (i) Restriction regarding Indemnitees' Negligence. Contractor shall not be required to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.
- (ii) Restriction regarding Fault in Construction Agreements and Design Professional Agreements. Nothing in this contract requires the Contractor to indemnify or hold harmless Indemnitees or any other person or entity against losses, damages, or expenses unless the fault of the Contractor or its Derivative Parties is a proximate cause of the loss, damage, or expense indemnified.
- (iii) Restriction regarding Negligence of Design Professionals. Nothing in this contract requires the Contractor, provided that it is a design professional, to defend Indemnitees or any other person or entity against liability or claims for damages, or expenses, including attorney's fees, proximately caused or allegedly caused by the professional negligence, in whole or in part, of the Contractor, the City, or their Derivative Parties, whether the claim is alleged or brought in tort or contract.
- (iv) Liability When at Fault. The parties intend that nothing in this contract shall be construed to exclude from any indemnity or hold harmless provisions enforceable

under subsection (e)(i) (Restriction regarding Indemnitees' Negligence) and subsection (e)(ii) (Restriction regarding Fault in Construction Agreements and Design Professional Agreements) any attorneys' fees, litigation or arbitration expenses, or court costs actually incurred by the City to defend against third party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of the City by law or by contract, if the fault of the Contractor or its Derivative Parties is a proximate cause of the attorney's fees, litigation or arbitration expenses, or court costs to be indemnified. Every provision in this contract that violates the parties' intent expressed in the preceding sentence shall be construed and revised to the extent that it is lawful in order to make the provision conform with such intent.

- (v) Other Provisions. Every provision in this contract that violates this subsection (e) shall be construed and revised to the extent that it is lawful in order to make the provision conform with those subsections.

Sec. 14. Termination for Convenience ("TFC").

(a) *Procedure.* Without limiting any party's right to terminate for breach, the parties agree that the City may, without cause, and in its discretion, terminate this contract for convenience by giving the Contractor written notice that refers to this section. TFC shall be effective at the time indicated in the notice.

(b) *Obligations.* Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions and the section of this contract titled Trade Secrets and Confidentiality, if any, shall remain in force. At the time of TFC or as soon afterwards as is practical, the Contractor shall give the City all Work, including partly completed Work. In case of TFC, the Contractor shall follow the City's instructions as to which subcontracts to terminate.

(c) *Payment.* The City shall pay the Contractor an equitable amount for the costs and charges that accrue because of the City's decisions with respect to the subcontracts, but that amount will exclude profit for the Contractor. Within 30 days of the Contractor's receipt of notice of TFC, the City shall pay the Contractor one hundred dollars (\$100) as a TFC fee. The City shall pay the Contractor for all Work performed up to the termination date indicated in the TFC notice, except to the extent Work has been paid for previously. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed, except to the extent it would be inequitable to either party. If Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The Contractor shall not be entitled to any payment because of TFC except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Sec. 15. E-Verify Requirements. (a) If this contract is awarded pursuant to NCGS §143-129 – (i) the Contractor represents and covenants that the Contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor's subcontractors," and "comply" as used in this subsection (a) shall have the meanings intended by NCGS §143-129(j); and (iii) the City is relying on this subsection (a) in entering into this contract. (b) If this contract is subject to NCGS §143-133.3, the Contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

Sec. 16. Choice of Law and Forum; Service of Process.

(a) This contract shall be deemed made in Durham County, North Carolina. This contract shall be governed by and construed in accordance with the law of North Carolina and not the United Nations Convention on Contracts for the International Sale of Goods. The exclusive forum and venue for all actions arising out of this contract shall be the North Carolina General Court of Justice in Durham County. Such actions shall neither be commenced in nor removed to federal court. The

preceding two sentences do not apply to actions to enforce a judgment entered in actions heard pursuant to this subsection (a).

(b) If the Contractor is a business entity (for instance, the Contractor is a corporation or limited liability company), this subsection (b) applies. "Agent Authorized to Accept Service of Process" ("Agent") means every person now or hereafter appointed by the Contractor to be served or to accept service of process in any State of the United States. The Contractor hereby appoints as one of those Agents the person it designates to receive notice pursuant to Section 7 (Notice Addresses). If the Contractor fails to appoint an Agent or the Agent cannot be served using reasonable diligence, the Contractor appoints the Durham City Clerk as its Agent. Without excluding any other method of service authorized by law, the Contractor agrees that every Agent is designated as its non-exclusive Agent. The Contractor shall instruct each Agent that when the Agent receives the process, summons, or complaint, the Agent shall promptly send it to the Contractor using a means for giving notice under this contract, provided that when the City Clerk is the Agent, the City shall issue such instructions. This subsection (b) does not apply while the Contractor maintains a registered agent in North Carolina by filing with the office of the North Carolina Secretary of State and that registered agent can be found with due diligence at the registered office.

Sec. 17. Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

Sec. 18. Performance of Government Functions. Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

Sec. 19. Severability. If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

Sec. 20. Assignment. Successors and Assigns. Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this contract. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this contract and all of the City's claims that arise out of this contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

Sec. 21. Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law.

Sec. 22. Notice of City Policy. Compliance with Non-Discrimination Ordinance. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY, FAMILIAL STATUS, MILITARY STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, AND PROTECTED HAIRSTYLE. The Contractor shall comply with all applicable provisions of Chapter 34 of the Durham City code (Non-Discrimination) and shall explicitly require the same of its subcontractors in their subcontracts.

Sec. 23. EBOP. The Contractor shall comply with all applicable provisions of Article III of Chapter 18 of the Durham City Code (Equal Business Opportunities Ordinance), as amended from time to time. The failure of the Contractor to comply with that article shall be a material breach of contract which may result in the rescission or termination of this contract and/or other appropriate

remedies in accordance with the provisions of that article, this contract, and State law. The Participation Plan submitted in accordance with that article is binding on the Contractor. Section 18-59(f) of that article provides, in part, "If the City Manager determines that the Contractor has failed to comply with the provisions of the Contract, the City Manager shall notify the Contractor in writing of the deficiencies. The Contractor shall have 14 days, or such time as specified in the Contract, to cure the deficiencies or establish that there are no deficiencies." It is stipulated and agreed that those two quoted sentences apply only to the Contractor's alleged violations of its obligations under Article III of Chapter 18 and not to the Contractor's alleged violations of other obligations.

Sec. 24. Limited Third-Party Rights Created. This contract is intended for the benefit of the City and the Contractor and not for any other person, except to the extent otherwise expressly stated in this contract.

Sec. 25. Principles of Interpretation and Definitions. (a) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include", "including", etc. mean include, including, etc. without limitation. (b) References to a "Section" or "section" shall mean a section of this contract. (c) "Contract" and "Agreement", whether or not capitalized, refer to this instrument. (d) "Duties" includes obligations. (e) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (f) The word "shall" is mandatory. (g) The word "day" means calendar day. (h) The word "Holiday" means legal holiday observed by the City pursuant to City Code section 42-16 or any successor provision. (i) A definition in this contract will not apply to the extent the context requires otherwise.

Sec. 26. Modifications. Entire Agreement. A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless it is signed by the City Manager, a deputy City Manager, or, in limited circumstances, a City department director. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

Sec. 27. Public Health Emergency Declarations. This section shall take effect upon the declaration of a state of emergency made pursuant to applicable law, code, or ordinance by any federal, state, county, or city official, due to a public health emergency, such as an epidemic, pandemic, or endemic disease. The Contractor shall comply with the written procedures and policies adopted by the City department or office primarily responsible for administering this contract. The Contractor shall ensure that all assigned temporary employees and subcontractors comply with the written procedures and policies while performing the Work on City property.

Sec. 28. City Manager's Authority. To the extent, if any, the City has the power to suspend or terminate this contract or the Contractor's services under this contract, that power may be exercised by the City Manager or a deputy City Manager without City Council action.

IN WITNESS WHEREOF, the City and the Contractor have caused this contract to be executed under seal themselves or by their respective duly authorized agents or officers.

ATTEST:

CITY OF DURHAM

By: _____

preaudit certificate, if applicable _____

[Insert signature block and notarization for vendor here. See Form - Vender Signature & Notary Acknowledgement]